

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
January 15, 2004 (9:00 a.m.)**

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Ruth Ann Wall, Presiding Officer, presided. No Board members were present.

Jennifer Kazzie appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc = Disciplinary Case
Lic = Licensing Application
RF = Recovery Fund Claim
Trades = Tradesmen Application

C = Complainant/Claimant
A = Applicant
R = Respondent/Regulant
W = Witness
Atty = Attorney

Participants

- | | |
|---|---|
| 1. Global Coatings & Restoration LLC
File Number 2004-00077 (Disc) | Peter Barker - C |
| 2. Donald W. Simmons
t/a Payless Plumbing
File Number 2003-01785 (Disc) | Simmons – R
Ralph Woodson – C |
| 3. Ronald W. Miller
t/a Miller Plumbing & Water Restoration
File Number 2003-01426 (Disc) | Wayne Johnson - C
Glen Coats – C |
| 4. Robert R. Byrd
t/a Robert Byrds Home Improvements
File Number 2003-01904 (Disc) | Byrd – R
Ronald Denny – R Atty
Kim Byrd - W
Susan Southers – W
A. Steven Byrd - W |
| 5. Home Exterior Designs Inc.
File Number 2003-00731 (Disc) | Fred & Doris Brandt - C
James Evans - C Atty |

Susan Berry - W

6. R A W Associates Inc.
t/a Design Associates and Drapery House
File Number 2002-00582 (Disc)

Robert Williams – R

7. Fouche Options Unlimited Inc.
File Number 2002-01625 (Disc)

Michael Fouche – R
Lionel Lyle – C
Rhonda Lyle – C

8. Doris Newton
t/a M & M Mobile Home Contractors
File Number 2002-02814 (Disc)

None

The meeting adjourned at 3:00 p.m.

BOARD FOR CONTRACTORS

Mark D. Kinser, Chairman

Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: GLOBAL COATINGS & RESTORATIONS, LLC
LICENSE NUMBER 2705 072557**

FILE NUMBER: 2004-00077

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 15, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Global Coatings & Restoration, LLC (Global Coatings) on November 20, 2003. The following individuals participated at the conference: Peter Barker, Complainant; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer. No one from Global Coatings & Restoration, LLC made an appearance at the IFF in person or by counsel.

Background

On June 11, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complainant from Peter Barker (Barker) regarding a contract entered into with Global Coatings & Restorations LLC (Global Coatings).

On September 2, 2002, Barker entered into a contract with Global Coatings, in the amount of \$13,468.00, to paint Barker's residence at 2204 Rivermont Avenue, Lynchburg, Virginia.

Summation of Facts

1. The contract used by Global Coatings failed to contain: (a) when work is to begin and the estimated completion date, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning, (f) disclosure of the cancellation rights of the parties, and (h) contractor's license number, expiration date, class of license, and classifications or specialty services.
2. On September 3, 2002, Barker paid Global Coatings \$2,500.00 by check as a deposit.
3. On September 23, 2002, Barker called Global Coatings to cancel the contract because of Global Coatings failure to commence work. Barker also requested the \$2,500.00 deposit returned. On October 1, 2002, Barker called Global Coatings again to request the return of the \$2,500.00 deposit. On October 15, 2002, Jelah Slominski (Slominski), attorney

representing Barker, sent a letter to Global Coatings requesting the \$2,500.00 be returned by October 18, 2002. On October 15, 2002, Global Coatings sent Slominski a facsimile advising that a refund check would be sent out on November 1, 2002.

4. On November 18, 2002, Slominski filed a Warrant in Debt against Global Coatings to obtain the \$2,500.00.

5. On February 19, 2003, in the Lynchburg General District Court, Barker was awarded a \$2,500.00 judgment against Global Coatings. There is no appeal pending and the time for appeal has lapsed. As of August 5, 2003, Global Coatings failed to return the money received for work not performed.

6. During the IFF, Barker testified that Global Coatings has failed to satisfy the judgment to date.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Global Coatings failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Global Coatings failure to return the money received for work not performed is a violation of Board Regulation 18 VAC 50-22-260(B)(16). Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 3: 18 VAC 50-22-260(B)(28) (Effective January 1, 2003)

Global Coatings failure to satisfy the judgment is a violation of Board Regulation 18 VAC 50-22-260(B)(28). Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

By:

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: DONALD W. SIMMONS
T/A PAYLESS PLUMBING CO.
LICENSE NUMBER 2705 006365**

FILE NUMBER: 2003-01785

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 15, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Donald W. Simmons, t/a Payless Plumbing Co. (Simmons) on November 20, 2003. The following individuals participated at the conference: Donald W. Simmons, Respondent; Ralph C. Woodson, Complainant; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer.

Background

On December 20, 2002, the Enforcement Division of the Virginia Department of Professional and Occupational Regulation received a written complaint from Ralph C. Woodson (Woodson) regarding a contract entered into with Donald W. Simmons (Simmons), t/a Payless Plumbing Co.

On June 20, 2002, Woodson entered into a contract with Simmons, in the amount of \$2,650.00, to install an air conditioning and heat pump system, a digital thermostat, and two ceiling fans at 2502 Byron Street, Richmond, Virginia.

Summation of Facts

1. The contract used by Simmons in the transaction failed to contain: (a) when the work is to begin and the estimated completion date, (d) a "plain language" exculpatory clause, (e) statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, (h) contractor's license number, expiration date, class of license/certificate, and classification or specialty services, and (i) a statement providing that any modification to the contract which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.
2. On June 20, 2002, installation of the heat pump system commenced. Simmons subcontracted George Mallory (Mallory), t/a City Wide Heating & Air Conditioning, to install the heat pump system. On July 11, 2002, installation of the heat pump system was completed. A review of the licensing records for the Board for Contractors reveal City Wide Heating and Air Conditioning does hold the specialties HVA and GFC.
3. On July 11, 2002, Woodson paid Simmons \$2,650.00.

4. On July 12, 2002, Simmons paid Mallory \$1,000.00 by check. On July 22, 2002, Simmons paid Mallory \$1,000.00 by check.
5. On December 23, 2002, a review of the licensing records of the Board for Contractors revealed Simmons was issued Class B Contractor's license number 2705006365 on December 17, 1991, with the plumbing contractors (PLB) classification and the gas fitting contracting (GFC) specialty. Simmons contracted to perform work outside of his classification and specialty.
6. On October 16, 2002, Woodson obtained mechanical permit number MEC2002-02868 for the installation of the new heating and air conditioning system at 2502 Byron Street, Richmond, Virginia.
7. On October 23, 2002, the Henrico County Building Inspector conducted a final mechanical inspection. The final inspection was rejected because a secondary drain pipe to the outside was required and all flex duct needed to be strapped and hung six inches off the ground. Woodson provided Simmons the county's rejected inspection report.
8. Simmons hired Charles Wyatt (Wyatt) of A Appliance Repair to correct the problems cited by the Henrico County Building Inspector during the final inspection. Wyatt ran the drain line, put furnace cement around the smoke pipe, and hung flex duct at 2502 Byron Street, Richmond, Virginia. On December 20, 2002, Woodson paid Wyatt \$150.00 for work performed to correct the deficiencies.
9. On December 26, 2002, the final mechanical inspection was approved.
10. On July 2, 2003, Simmons called Woodson and arranged to meet on July 4, 2003, to reimburse the \$150.00. On July 4, 2003, Simmons and Woodson did not meet. On July 8, 2003, and August 4, 2003, Simmons told Woodson he would mail the \$150.00. On August 11, 2003, Simmons promised Woodson he would refund the \$150.00 in cash. As of September 2, 2003, Simmons failed to refund the money as promised.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Simmons failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$250.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(27) (Effective September 1, 2001)

Simmons actions in practicing in a classification, specialty service, or class of license for which the contractor is not licensed is a violation of Board Regulation 18 VAC 50-22-260(B)(27). Therefore, I recommend a monetary penalty of \$250.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Simmons retention or misapplication of funds paid, for which work is either not performed or performed only in part, is a violation of Board Regulation 18 VAC 50-22-260(B)(16). Therefore, I recommend a monetary penalty of \$500.00 be imposed.

By:

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 006365 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: RONALD W. MILLER
T/A MILLER PLUMBING & WATER RESTORATION
LICENSE NUMBER 2705 015822**

FILE NUMBER: 2003-01426

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 15, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Ronald W. Miller, t/a Miller Plumbing & Water Restoration (Miller) on November 20, 2003. The following individuals

participated at the conference: Wayne Johnson, Complainant; Glen Coats, Complainant; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Miller, nor anyone on his behalf, appeared at the IFF.

Background

On November 14, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Wayne Johnson (Johnson) and Glen Coats (Coats) regarding work performed by Ronald W. Miller (Miller), t/a Miller Plumbing & Water Restoration.

On August 19, 2002, Johnson entered into a contract with Miller's Plumbing & Water Restoration Inc., in the amount of \$2,100.00, to perform plumbing repairs and alterations at 634 New Jersey Avenue, Norfolk, Virginia.

On October 22, 2003, Miller obtained plumbing permit number 03-00000735 for plumbing work performed at 637 New Jersey Avenue, Norfolk, Virginia. The permit indicated license number 2705015822B as the contractor for the permit.

On November 19, 2002, a review of the licensing records of the Board for Contractors revealed Miller was issued Class B Contractor's license number 2705015822 on October 1, 1992, as a sole proprietorship.

Summation of Facts

1. Miller failed to operate in the name in which the license was issued.
2. On April 21, 2003, a review of the State Corporation Commission records revealed Miller's Plumbing & Water Restoration Inc. became incorporated on January 17, 2002. The records further revealed Ronald Miller was the Registered Agent for the corporation.
3. Miller failed to obtain a new license within thirty (30) days of forming a new business entity.
4. The contract used by Miller in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when the work is to begin and the estimated completion date, (e) statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights of the parties, (h) the contractor's license number, expiration date, class of license, and classifications or specialty services, and (i) a statement providing that any modifications to the contract which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.
5. On August 20, 2002, Johnson paid Miller \$1,050.00. On August 28, 2002, Johnson paid Miller \$700.00.
6. On or about November 1, 2002, Coats requested Miller return the funds received for the unfinished work. Miller refused. On November 23, 2002, Miller contacted Johnson to apologize and agreed to return the funds paid.
7. On December 13, 2002, Miller promised Johnson, in writing, that Miller would return the \$1,750.00. In a letter dated December 16, 2002, Miller stated that Miller contacted Johnson and made arrangements to refund the \$1,750.00.
8. During the IFF, Coats testified that Miller has failed to honor the promise to return the \$1,750.00 to date.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-230(A) (Effective September 1, 2001)

Miller's failure to operate in the name in which the license is issued is a violation of Board Regulation 18 VAC 50-22-230(A). Therefore, I recommend a monetary penalty of \$500.00 be imposed.

Count 2: 18 VAC 50-22-210(3) (Effective September 1, 2001)

Miller's failure to obtain a new license within thirty (30) days of forming a new business entity is a violation of Board Regulation 18 VAC 50-22-210(3). Therefore, I recommend a monetary penalty of \$250.00 be imposed.

Count 3: 18 VAC 50-22-260(9) (Effective September 1, 2001)

Miller's failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$250.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Miller's failure to honor the promise to return the \$1,750.00 is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$1,750.00 be imposed.

By: _____

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 015822 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: ROBERT R. BYRD
T/A ROBERT BYRD'S HOME IMPROVEMENTS
LICENSE NUMBER 2705 025042**

FILE NUMBER: 2003-01904

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 15, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Robert R. Byrd, t/a Robert Byrd's Home Improvements (Byrd) on November 20, 2003. The following individuals participated at the conference: Robert R. Byrd, Respondent; Ronald W. Denney, Esquire, Attorney for Respondent; Kim Byrd, witness, Steven Byrd, Witness; Susan Renee Southers, Witness; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer.

Background

On January 13, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Robert F. Kimmel, Jr. (Kimmel) of Staunton Building Supply Inc. regarding Robert R. Byrd (Byrd), t/a Robert Byrds Home Improvements.

Clifton Tyler Wood (Wood) of Shenandoah Development and Investment Corporation (SDIC) submitted a credit application to Staunton Building Supply Inc. to purchase building supplies and materials for the construction of two residential dwellings in Augusta County, Virginia.

Wood hired Byrd as a subcontractor to install vinyl siding and guttering at Harshbarger Lot 139 and Lot 282 in Augusta County, Virginia.

The licensing records of the Board for Contractors revealed neither Wood nor SDIC is a licensed contractor.

Summation of Facts

1. On March 6, 2002, the County of Augusta Building Inspection Department issued building permit number 0000033-2002 for construction of new home at Harshbarger Lot 282, Section 8, Augusta County, Virginia. The permit indicated the contractor was Robert Byrds Home Improvement.
2. On March 12, 2002, the County of Augusta Building Inspection Department issued building permit number 0000370-2002 for construction of new home at Harshbarger Lot 139, Section 9, Augusta County, Virginia. The permit indicated the contractor was Robert Byrds Home Improvement.
3. On September 3, 2002, the County of Augusta Building Inspection Department issued building permit number 0001555-2002 for construction of new home at Harshbarger Lot 260, Section 12, Augusta County, Virginia. The permit indicated the contractor was Robert Byrds Home Improvement.
4. On April 22, 2003, and April 29, 2003, Susan R. Southers (Southers), Administrative Secretary for the County of Augusta Building Inspection Department, told Assistant Director E. Wayne Mozingo, the Board's agent, that Byrd authorized the issuance of the building permits for new home construction on Lot 139, Lot 282, and Lot 260 in the Harshbarger Subdivision, Augusta County, Virginia. Southers spoke to Kim Byrd, the designated employee for Byrd, and verified this information.
5. During the IFF, Kim Byrd denied speaking to Susan Southers.
6. Southers also contacted Robert Byrd regarding a permit application submitted by Tyler Wood for Lot 260, Section 12, Augusta County, Virginia. Byrd confirmed that Byrd should be listed as the contractor for permit number 0001555-2002.
7. During the IFF, Robert Byrd denied speaking to Susan Southers.
8. In a letter dated November 5, 2002, Byrd advised the County of Augusta Building Inspection Department that Byrd was not responsible for the work at Lot 282 and Lot 260 of the Harshbarger subdivision, Augusta County, Virginia. Byrd requested that his license not be associated with the permits for these two jobs.
9. In early summer of 2002, Byrd installed siding and gutters on the house being constructed on Harshbarger Lot 139, Augusta County, Virginia. Wood paid Byrd \$3,700.00 for the work.
10. In mid summer of 2002, Byrd installed siding and gutters on the new house being constructed on Harshbarger Lot 282, Augusta County, Virginia. Wood paid Byrd \$3,700.00 for the work.

11. During the IFF, a copy of the subcontractor agreement/contract between SDI Companies, and Robert Byrd was presented and entered into the record as Byrd Exhibit 1.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(19) (Three Violations) (Effective September 1, 2001) (Byrd's actions in allowing his license to be used by another)

I recommend that Count 1 be closed with a finding of no violation. Based on the testimony during the IFF, it appears Tyler Wood applied for the permits using Robert Byrd's name as the contractor, without the authorization of Robert Byrd.

Count 2: 18 VAC 50-22-260(B)(29) (Two Violations) (Effective September 1, 2001)

Byrd's actions in contracting with an unlicensed or improperly licensed contractor or subcontractor in the delivery of contracting services is a violation of Board Regulation 18 VAC 50-22-260(B)(29) (Two Violations). Therefore, I recommend a monetary penalty of \$100.00 be imposed for each violation.

By: _____

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 025042 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: HOME EXTERIOR DESIGNS, INC.
LICENSE NUMBER 2705 031729**

FILE NUMBER: 2003-00731

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 15, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Home Exterior Designs, Inc. (HED) on November 20, 2003. The following individuals participated at the conference: Fred and Doris Brandt, Complainants; James Evans, Esquire, Attorney for Complainants; Susan Berry, Witness; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer. No one from Home Exterior Designs, Inc. made an appearance at the IFF in person or by counsel.

Background

On September 5, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Fred and Doris Brandt (the Brandts) regarding work performed by Home Exterior Designs Inc. (HED).

On January 8, 2002, the Brandts entered into a contract with Home Exterior Designs, in the amount of \$10,450.00, to construct a screened porch at 15026 General Lee Avenue, Culpeper, Virginia. The contract indicated "Contractor License No.: 2705031729A."

In March 2002, HED completed the porch.

A review of the licensing records of the Board for Contractors revealed HED was issued Class A Contractor's license number 2705031729 on November 27, 1995, as a corporation.

Summation of Facts

1. The contract used by HED failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (d) a "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning, (h) contractor's license expiration date and specialty service, and (i) a statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.
2. On or about September 5, 2002, William Myers (Myers), Culpeper County Building Official, sent a Notice of Violation to HED for failure to obtain a building permit prior to commencement of work, in violation of Section 109.1 of the Uniform Statewide Building Code. Myers requested HED obtain the required permit within thirty (30) days. As of March 18, 2003, HED failed to obtain the required building permit.
3. In a certified letter dated September 9, 2002, HED told Eddie Edmondson and Sons ("Edmondson") that there was no record of a license for Edmondson or the Edmondson license was invalid. Edmondson failed to claim the certified letter, which was eventually returned to HED.
4. In a response letter and a letter dated November 6, 2002, HED stated that the work on the Brandts' porch was performed by Eddie Edmondson and Sons, a subcontractor.
5. A review of the licensing records revealed Eddie Edmondson and Sons does not hold a valid contractor's license.
6. On January 8, 2002, the Brandts paid HED \$2,000.00 by check. On March 18, 2002, the Brandts paid HED \$8,450.00 by check.
7. On May 16, 2002, HED told the Brandts that an appointment would be set to review the work on the porch. HED failed to contact the Brandts to set up the appointment to inspect the work performed.
8. On June 14, 2002, the Brandts' daughter wrote a letter to HED notifying them that she was "appalled by the standard of workmanship" performed on the porch and requested someone from HED inspect the work by June 21, 2002. The Brandts' daughter noted that "One of the studs is actually bent and everything attached to it is nailed in at an angle. The screen door is hung crookedly and must be lifted up in order to open or close it. The caulking has literally fallen out."

9. In a response letter, HED stated that HED would “set things in order” and “help the Brandt family as best I can.” HED further stated that the work was performed by Edmonson, a subcontractor.

10. In July 2002, the Brandts’ daughter hired a home inspector to review the work performed by HED. Leroy Byler (Byler), Byler Home Inspections Inc., inspected the Brandts’ porch. In a report dated July 17, 2002, Byler noted the following deficiencies:

- Addition was added without plans, permits, and inspections;
- Slab was poured without footings or foundation;
- 2 x 4 studs are spaced too far apart for a structural wall and have bowed;
- Structure was not properly secured to the slab;
- Double 2 x 4 top plate spanning 48+” is an inadequate support for the roof system;
- The 2 x 2 ledge was not properly nailed at the roof rafters;
- Roof slope is less than a 4-12 and requires multiple layer underlayment and double coverage asphalt shingles;
- Roof shingles are not flashed at the vertical house wall;
- Concrete forms have not been removed;
- Exterior elevation is higher than or slopes towards the porch slab;
- Roof shingles have inadequate overhang at the gutters;
- Improper nails used resulting in rusting;
- Gaps between wood framing and caulking and loose caulking; and
- Gaps around screen door.

11. Myers also noted other building code violations. Myers did not issue a Notice of Violation to HED for these other building code violations because Myers hoped HED would obtain the permit and the violations would be addressed later. Myers noted the following violations of the 1995 CABO: no footings installed, in violation of Section 403.1; failure to install flashing, in violation of Section 903.6; and failure to install the correct size for the uprights, in violation of Section 602.3 and Table 602.3d. The uprights installed for the porch are less than 2 x 4’s.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

HED’s failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$250.00 and license revocation be imposed.

Count 2: 18 VAC 50-22-260(B)(25) (Effective September 1, 2001)

HED’s failure to obtain a building permit prior to commencement of work, in violation of Section 109.1 of the Uniform Statewide Building Code, is a violation of Board Regulation

18 VAC 50-22-260(B)(25). Therefore, I recommend a monetary penalty of \$250.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(29) (Effective September 1, 2001)

HED's actions in contracting with an unlicensed or improperly licensed contractor or subcontractor in the delivery of contracting services is a violation of Board Regulation 18 VAC 50-22-260(B)(29). Therefore, I recommend a monetary penalty of \$500.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

HED's actions of performing work which does not meet the standard of the 1995 CABO, as noted by William Myers, Culpeper County Building Official, are a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$1,000.00 and license revocation be imposed.

By: _____

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 031729 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: R.A.W. ASSOCIATES, INC.
T/A DESIGN ASSOCIATES AND DRAPERY HOUSE
LICENSE NUMBER 2705 020575**

FILE NUMBER: 2002-00582

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 15, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to R.A.W. Associates, Inc. on November 20, 2003. The following individuals participated at the conference: Robert A. Williams, Jr., on behalf of R.A.W. Associates, Inc., Respondent; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer.

Background

On August 20, 2001, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Taylor and Levonne Cousins (the Cousins) regarding work performed by R.A.W. Associates Inc. (RAW), t/a Design Associates and Drapery House.

On or about April 18, 2001, the Cousins entered into a verbal "time and materials" agreement with RAW, to renovate two existing bathrooms and a hall bathroom into a new master bedroom and bath at 7706 Hampshire Drive, Richmond, Virginia.

Summation of Facts

1. On May 15, 2001, RAW commenced work. Between May 15, 2001 and June 1, 2001, RAW removed temporary interior partitions, carpet, ceramic tile, cabinets and fixtures, decorative trim and doors, and wallboard.
2. On or about May 24, 2001, Cousins received an invoice, in the amount of \$6,581.40, for the work performed by RAW between May 10, 2001 and May 22, 2001. On May 25, 2001, Cousins paid RAW \$6,581.40 by check.
3. On June 3, 2001, the Cousins terminated the agreement with RAW.
4. Invoices, letterhead, and a business card used by RAW indicated a business name of "Design Associates."
5. A review of the licensing records of the Board for Contractors revealed Class A Contractor's license number 2705020575 was issued to R.A.W. Associates Inc., t/a Design Associates and Drapery House.

6. During the IFF, Williams stated that he firmly believes he was performing work under his retail business and it did not require a contract.

7. Williams presented evidence at the IFF that Design Associates is a fictitious name of RAW Associates, Inc., effective March 31, 1996.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

RAW's failure to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed, is a violation of Board Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend a monetary penalty of \$500.00 be imposed. Based on the evidence, I believe that Williams needed a contract to perform the work at the Cousins residence.

Count 2: 18 VAC 50-22-230(A) (Effective May 1, 1999) (RAW's failure to operate in the name in which the license was issued)

I recommend that Count 2 be closed with a finding of no violation.

By: _____

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 020575 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: FOUCHE OPTIONS UNLIMITED, INC.
LICENSE NUMBER 2705 047206**

FILE NUMBER: 2002-01625

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 15, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Fouche Options Unlimited, Inc. on November 20, 2003. The following individuals participated at the conference: Michael Fouche, President of Fouche Options Unlimited, Inc, Respondent; Lionel and Rhonda Lyle, Complainants; Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer.

Background

On November 7, 2001, the Enforcement Division of the Department of Professional and Occupation Regulation received a written complaint from Lionel and Rhonda Lyle (the Lyles) regarding a contract entered into with Fouche Options Unlimited (Fouche).

On August 6, 2001, the Lyles entered into a contract with Fouche, in the amount of \$15,373.00, for the construction of a deck at 16028 Kings Mountain Road, Woodbridge, Virginia. On August 6, 2001, the Lyles paid Fouche \$4,611.90 by check.

On August 8, 2001, Fouche commenced work.

On August 20, 2001, the Lyles paid Fouche \$2,305.95 by check. On August 30, 2001, the Lyles paid Fouche \$3,400.00 and \$1,211.90 by two checks. On October 27, 2001, the Lyles paid Fouche \$2,305.95 by check.

Summation of Facts

1. The contract used by Fouche failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(8), subsections, (f) disclosure of the cancellation rights of the parties and (h) contractor's license expiration date, and specialty service.
2. On September 4, 2001, Mari Cote (Cote), Code Enforcement Officer, Prince William County Department of Public Works, issued a Notice of Violation to Fouche for failure to obtain a building permit prior to commencing construction of a deck at the subject property, in violation of Section 109.1 of the Uniform Statewide Building Code (USBC).
3. On October 15, 2001, Fouche obtained building permit number BLD2002-02848 for the work performed and that would be performed by Fouche at 16028 Kings Mountain Road, Woodbridge, Virginia.
4. The contract specified date of work "8-10-01 to 9-2-01."
5. On August 31, 2001, the Lyles and Fouche met to discuss completion of the deck. Fouche told the Lyles that the deck would be completed by September 11, 2001.
6. In a letter dated August 27, 2001, the Lyles sent Fouche a letter requesting Fouche contact the Lyles regarding the progress and completion of the deck.
7. On September 16, 2001, Fouche left the job. On September 18, 2001, and September 19, 2001, the Lyles contacted Fouche regarding the progress of the work and requesting a timeline of when work would be completed.
8. On September 25, 2001, the Lyles sent Fouche a letter, via express mail, requesting Fouche obtain a permit and complete the deck by October 11, 2001. The letter was returned to the Lyles and was marked "unclaimed" by the United States Postal Service.
9. On October 15, 2001, Fouche resumed work. In a letter dated October 23, 2001, the Lyles provided Fouche a list of items remaining to be completed and requested the work be completed by October 27, 2001.
10. As of November 6, 2001, Fouche failed to complete the work.
11. In a letter dated November 16, 2001, the Lyles notified Fouche that they were terminating the contract for failure to complete the work.
12. On November 20, 2001, Milton Maybe (Maybe), Inspector, Prince William County Department of Public Works, inspected the deck constructed by Fouche work at the subject property. Maybe rejected the inspection for the following reasons, including, but not limited to:

- beam bolts too close together;
- ledger hangers missing;
- stair risers needed to be closed;
- joists needed to be nailed to the beams;
- protruding nails in the railing;
- rails too loose;
- holes in the siding;
- rafter missing in the gable;
- deck footing was poured prior to inspection; and
- portion of the roof was covered prior to the framing inspection.

13. In a letter dated December 26, 2001, the Lyles notified Fouche that the work performed by Fouche failed inspection. The Lyles requested Fouche return to the subject property to complete the deck in accordance with county code and ensure the work passes inspection by January 31, 2002.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Fouche's failure to make use of a legible contract that contains all provisions specified in the regulation, is a violation of Board Regulation 18 VAC 50-22-260(B)(8). Therefore, I recommend a monetary penalty of \$500.00 be imposed. Fouche agreed to submit a current contract within 7 days. If Fouche complies, I recommend a monetary penalty of \$250.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Fouche's failure to obtain a building permit, prior to commencing construction, constitutes misconduct in violation of the Board's 2001 Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$250.00 be imposed.

Count 3: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Fouche's failure to obtain a written change order for a modification in the estimated completion date, is a violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$250.00 be imposed.

Count 4: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Fouche's failure to complete the work contracted to perform, is a violation of Board Regulation 18 VAC 50-22-260(B)(12). Therefore, I recommend a monetary penalty of \$500.00 and license revocation be imposed.

Count 5: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Based on the pictures submitted by the Lyles, I believe the work performed by Fouche was substandard.

Fouche's actions of performing work that did not pass inspection constitutes misconduct in the practice of contracting, in violation of Board Regulation 18 VAC 50-22-260(B)(6). Therefore, I recommend a monetary penalty of \$500.00 and license revocation be imposed.

By:

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 047206 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: DORIS NEWTON
T/A M & M MOBILE HOME CONTRACTORS
LICENSE NUMBER 2705 065284**

FILE NUMBER: 2002-02814

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on January 15, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Doris Newton (Newton), t/a M & M Mobile Home Construction on November 20, 2003. The following individuals participated at the conference: Jennifer Kazzie, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Newton, nor anyone on her behalf, appeared at the IFF.

Background

On March 11, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Vinh Cam Quach (Quach) regarding a contract entered into with Doris Newton (Newton), t/a M & M Mobile Home Contractors.

On September 14, 2001, Quach entered into a contract with Newton, in the amount of \$5,000.00, to disassemble a 44' x 28' double wide mobile home in North Carolina and to set up the mobile home at 84 Bristol View Drive # 2, Bristol, Virginia.

Summation of Facts

1. The contract used by Newton failed to include the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when work is to begin and the estimated completion date, (d) a "plain language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspection, and zoning, (f) disclosure of the cancellation rights of the parties, (h) contractor's name, address, license number, expiration date, class of license, and classifications or specialty services, and (i) statement providing that any modification to the contract, which changes the cost, materials,

work to be performed, or estimated completion date must be in writing and signed by all parties.

2. On March 21, 2002, Investigator Robert Hansel, the Board's agent, made a written request to Newton at the license address of record of 1756 U.S. 1 Highway, P.O. Box 364, Youngstown, North Carolina 27596, requesting a written response and supporting documentation to the complaint filed with the Board. The Board's agent requested the documentation be received by April 5, 2002. The letter was not returned to the Board's agent.
3. On March 25, 2002, and May 17, 2002, the Board's agent attempted to call Newton at (919) 562-4468, the telephone number on the contract, business card, and Complaint Form. On each attempt, an answering machine answered and identified the number as M & M Mobile Home Contractors. The Board's agent left a message on the answering machine each time for Newton to call the Board's agent.
4. On May 22, 2002, the Youngsville, North Carolina Postmaster certified mail was delivered to Newton to 1756 U.S. 1 Highway, P.O. Box 364, Youngsville, North Carolina 27596.
5. On May 30, 2002, the Board's agent made a second written request to Newton at the license address of record of 1756 U.S. 1 Highway, P.O. Box 364, Youngstown, North Carolina 27596, requesting a written response and supporting documentation to the complaint filed with the Board. The Board's agent requested the documentation be received by June 6, 2002. The letter was not returned to the Board's agent.
6. On June 5, 2002, and June 19, 2002, the Board's agent attempted to call Newton at (919) 562-4468, the telephone number on the contract, business card, and Complaint Form. On each attempt, an answering machine answered and identified the number as M & M Mobile Home Contractors. The Board's agent left a message on the answering machine each time for Newton to call the Board's agent.
7. As of July 10, 2002, Newton failed to respond to the Board's agent's request.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Newton's failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9). Therefore, I recommend a monetary penalty of \$500.00 be imposed.

Count 2: 18 VAC 50-22-260(B)(13) (Effective September 1, 2001)

Newton's failure to respond to the Board's agent request for a written response and supporting documentation to the complaint filed with the Board, is a violation of Board Regulation 18 VAC 50-22-260(B)(13). Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

By:

Ruth Ann Wall
Presiding Officer
Board for Contractors
Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705 065284 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.